

**DEPARTMENT OF TAXATION  
2009 Fiscal Impact Statement**

**1. Patron** Emmett W. Hanger, Jr.

**2. Bill Number** SB 1029

**3. Committee** House Finance

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

**4. Title** Transient Occupancy Tax; Single-Family  
Residences

**Second House:**

  X   **In Committee**

           **Substitute**

           **Enrolled**

**5. Summary/Purpose:**

This bill would clarify that single-family residences rented out for continuous occupancy for fewer than thirty consecutive days may be held subject to a county's transient occupancy tax.

Under current law, any county may impose a transient occupancy tax at a maximum rate of two percent upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms, when such facilities are rented out for continuous occupancy for fewer than 30 consecutive days.

The effective date of this bill is not specified.

**6. Fiscal Impact Estimates are:** Not available. (See Line 8.)

**7. Budget amendment necessary:** No.

**8. Fiscal implications:**

This bill would have no impact on state revenues. This bill would result in an unknown revenue gain for localities, due to the addition of single-family residences to the list of taxable lodging facilities.

**9. Specific agency or political subdivisions affected:**

All localities

**10. Technical amendment necessary:** No.

## 11. Other comments:

### Generally

Under current law, any county may impose a transient occupancy tax at a maximum rate of two percent, upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. The tax, however, does not apply to rooms rented on a continuous basis by the same individual or group for thirty or more continuous days. The tax applies to rooms intended or suitable for dwelling and sleeping. Therefore, the tax does not apply to such rooms used for alternative purposes, such as banquet rooms and meeting rooms.

In 1985, the Virginia Attorney General addressed the issue of whether the local transient occupancy tax authorized by *Va. Code* § 58.1-3819 applied to individually owned, single family homes or condominiums located in a resort area rented through a real estate agency which provides advertising, reservations, housekeeping, accounting, and check-in services. (*Va. Op. Atty. Gen.* 359, 1984-85). At this time, the statute authorized localities to impose a transient occupancy tax on “hotels, motels, boarding houses and travel campgrounds.” Based on this language, the Attorney General ruled that the tax did not apply to such single family or condominium homes, as the General Assembly did not include language to this effect in the statute. In 1992, however, legislation was enacted that added “other facilities offering guest rooms,” to the list of properties subject to the transient occupancy tax.

### Proposal

This bill would clarify that single-family residences rented out for continuous occupancy for fewer than thirty consecutive days may be held subject to a county’s transient occupancy tax.

The effective date of this bill is not specified.

### Other Legislation

**House Bill 1917** and **Senate Bill 858** would add Giles County to the list of localities that are currently authorized to impose a transient occupancy tax at a maximum rate of five percent.

**House Bill 1947** would authorize Bath County to impose an additional transient occupancy tax at a maximum rate of two percent of the charge for the occupancy of any room or space. The revenues from the additional tax would be allocated equally between: 1) tourism, travel, and marketing of tourism, after consultation with local tourism industry organizations; and 2) costs incurred related to design, construction, and acquisition of tourism facilities, historic sites, beautification projects, and similar projects.

**House Bill 2316** would add Smyth County to the list of localities that are currently authorized to impose a transient occupancy tax at a maximum rate of five percent.

**House Bill 2502** would require that authorized counties, in levying a transient occupancy tax greater than two percent, must consult with representatives of lodging properties within the county.

**Senate Bill 1025** would add Greene County to the list of localities currently authorized to impose a transient occupancy tax at a maximum rate of five percent of the charge for the occupancy of any room or space.

**Senate Bill 1176** would require that authorized counties, in levying a transient occupancy tax greater than two percent, must consult with representatives of lodging properties within the county, but would deem James City County and York County in compliance with this requirement because they have enacted an additional transient occupancy tax, the revenues of which are expended solely for advertising the Historic Triangle area as an overnight tourism destination pursuant to *Va. Code* § 58.1-3823(C).

cc : Secretary of Finance

Date: 2/9/2009 KP

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